



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 17, 1996

Ms. Karen L. Horner
Assistant City Attorney
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR96-0558

Dear Ms. Horner:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39404.

The City of Baytown received a request for "all records including notes and documents from all parties involved in the sexual harassment allegations" made against a certain city employee. You assert that portions of the requested information are excepted from required public disclosure pursuant to sections 552.101, 552.103, and 552.111 of the Government Code.

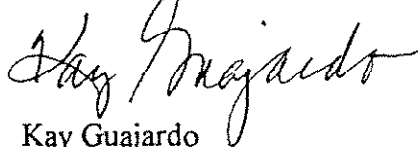
Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

You seek to withhold portions of the information to protect the privacy of individuals who gave statements during the investigation of the sexual harassment complaints. We agree that the witness statements contain highly intimate and embarrassing information. You inform us that the city has released to the alleged perpetrator of the sexual harassment "information [that] details each allegation, the finding

and some of the evidence in support thereof.” We believe that the information the city has disclosed satisfies the public’s legitimate interest in its investigation of an allegation of sexual harassment. However, we do not believe the public has a legitimate interest in the witnesses’ statements or in the witnesses’ identities. *See Morales v. Ellen*, 840 S.W.2d 519 (Tex. App - El Paso, 1992, writ denied). Accordingly, we conclude that the city must withhold this information from required public disclosure pursuant to section 552.101 of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision.¹ This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", written in a cursive style.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/ch

Ref.: ID# 39404

Enclosures: Submitted documents

cc: Mr. Norman E. Williamson, Jr.
(w/o enclosures)

¹Having concluded that the city must withhold the requested information from disclosure pursuant to section 552.101 of the Government Code, we need not consider the other exceptions you raise.